IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8229 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GREEN ENVIRONMENT SERVICES CO-OP HOSG. SOCIETY LTD - Petitioner(s)

Versus

STATE OF GUJARAT & 6 - Respondent(s)

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Appearance :

MR JIGAR M PATEL for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 6.
MR AMAR D MITHANI for Respondent(s) : 5,
MR YF MEHTA for Respondent(s) : 7,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 03/05/2006

ORAL JUDGMENT

1. By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner – society has challenged the legality and validity of

the judgment and order passed by the Principal Secretary (Appeals), Revenue Department, State of Gujarat, dated 22nd March, 2006 passed in revision application No.3/2005 in allowing the said revision application and quashing and setting aside the order passed by the Collector, Ahmedabad, dated 31st March, 2005 passed in Order No. L.B./R.A.No./32/2004 and restoring the Non-agricultural Use permission granted by the Prant Officer, Viramgam Prant, Ahmedabad, dated 16th July, 2004.

2. The contention on behalf of the petitioner is that for the land in question and other lands, Notification was issued by the Government of Gujarat, Forest & Environment Department, Gandhinagar, dated 14th December, 1995 notifying the lands in question for the development of facilities for disposal of Hazardous Wastes in Ahmedabad District and the said Notification was issued in exercise of the powers conferred under Rule-8 of the Hazardous Wastes (Man & Handling) Rules, 1989

made under Sections 6 and 8 of the Environment (Protection) Act, 1986. It appears from the record that pursuant to the said Notification, the lands in question along with other lands came to be put for acquisition and the Notification under Sections 4 and 6 of the Land Acquisition Act came to be issued. However, for not declaring the award within the stipulated period and for not paying the amount within the time limit, the acquisition proceedings are dropped and/or lapsed.

3.It is the contention on behalf of the private respondent that even now under the finalized T.P. Scheme, the land in question is designated under residential zone. Therefore, in view of the fact that the acquisition proceedings for the land in question, which was reserved for Hazardous Wastes, is lapsed and the Non-agricultural Use permission is granted, it cannot be said that there is any illegality committed by the Prant Officer, Viramgam Prant, in granting the Non-agricultural Use permission and/or restoring the said order by the

Principal Secretary (Appeals), Revenue Department, State of Gujarat. Therefore, the contention on behalf of the petitioner that in view of the Notification dated 14th December, 1995, Non-agricultural Use permission is required to be cancelled, cannot be accepted.

4. Shri Harin Raval, learned advocate appearing on behalf of the private respondent, in whose favour the Non-agricultural Use permission is granted, has fairly submitted that if the private respondent is required to get any other permission under any other laws and/or is required to comply with other provisions of law, than, the private respondent will have to obtain the said permission and comply with the provisions of laws. Though it is the contention that they have already obtained necessary permissions, as required, and inspite of that he has made aforesaid statement, the respondent No.5 is directed to comply with the above statement.

5.In view of the above, the present Special Civil Application is required to be dismissed with the above observations and the statement made by the learned counsel appearing on behalf of the respondent No.5, and the same is accordingly dismissed. Notice discharged. However, there will be no order as to costs.

(M.R.SHAH, J.)

kdc.